

THE LAW OFFICE OF WILLIAM M. DOMINGO  
WILLIAM M. DOMINGO #3944  
ATTORNEY AT LAW

568 HALEKAUWILA STREET, 2<sup>ND</sup> FLOOR  
HONOLULU, HAWAI'I 96813  
PHONE: (808) 521-4323  
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EMAIL: wmdomingo@yahoo.com  
Attorney for Defendant  
SAMUEL M. KAAUWAI, III

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

AUG 09 2005

at 6 o'clock and 06 min. PM  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	) CR. NO. 03-00248DAE
	)
Plaintiff,	) NOTICE OF MOTION; MOTION
	) FOR WITHDRAWAL AND
vs.	) SUBSTITUTION OF COUNSEL;
	) DECLARATION OF COUNSEL;
SAMUEL M. KAAUWAI, III,	) CERTIFICATE OF SERVICE
	)
Defendant.	) DATE: August 12, 2005
_____	) TIME: 10:00 a.m.
	JUDGE: The Honorable Kevin S. C.
	Chang

**NOTICE OF MOTION**

TO: EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawaii

**EXHIBIT** 5

MARSHALL SIIVERBERG  
Assistant United States Attorney  
PJKK Federal Building  
300 Ala Moana Boulevard, Room 6100  
Honolulu, Hawaii 96813

PLEASE TAKE NOTICE that the following motion will be heard  
before the Honorable KEVIN S. C. CHANG, in his courtroom in the United States  
Courthouse, 300 Ala Moana Boulevard, Honolulu, Hawaii, on Friday, August 12,  
2005, at 10:00 a.m., or as soon as counsel may be heard.

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SAMUEL M. KAAUWAI, III

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

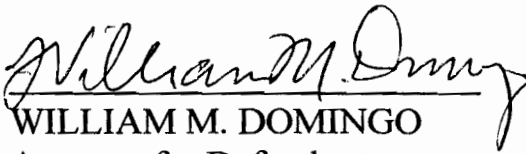
UNITED STATES OF AMERICA,	)	CR. NO. 03-00248DAE
	)	
Plaintiff,	)	MOTION FOR WITHDRAWAL
	)	AND SUBSTITUTION OF
vs.	)	COUNSEL
	)	
SAMUEL M. KAAUWAI, III,	)	
	)	
Defendant.	)	
_____	)	

**MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL**

COMES NOW the defendant, SAMUEL M. KAAUWAI, III, through  
counsel, WILLIAM M. DOMINGO, and moves this Honorable Court to allow him  
to withdraw as counsel and for the appointment of another CJA panel counsel for

the reason that there is a conflict of the attorney-client relationship, as set forth in the attached Declaration of Counsel.

DATED: Honolulu, Hawaii, August 9, 2005.

  
WILLIAM M. DOMINGO  
Attorney for Defendant  
SAMUEL M. KAAUWAI, III

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 03-00248DAE
	)	
Plaintiff,	)	DECLARATION OF COUNSEL
	)	
vs.	)	
	)	
SAMUEL M. KAAUWAI, III,	)	
	)	
Defendant.	)	
_____	)	

**DECLARATION OF COUNSEL**

I, WILLIAM M. DOMINGO, hereby declare as follows:

1. That I am counsel for defendant, SAMUEL M. KAAUWAI, III, having been appointed pursuant to the Criminal Justice Act.
2. On August 8, 2005, declarant was contacted by defendant who instructed me to file a motion to withdraw as counsel.
3. Defendant was unsatisfied with delarant's representation and gave notice of his intention to withdraw his guilty plea and go to trial.
4. It is my belief that Mr. Kaauwai does not trust my abilities or my judgment in this case and will allege my particular failings in his subsequent

motion to withdraw his plea.

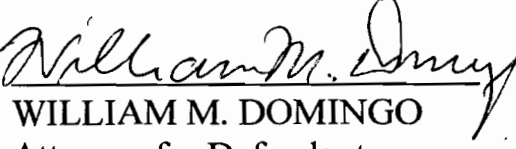
5. Based upon the reason set forth above, it is not possible for me to continue to provide meaningful representation to SAMUEL M. KAAUWAI, III.

6. It would be in the interest of justice that this Court appoint new counsel for Defendant.

7. That the facts and statements set forth in the foregoing document are true and correct to the best of my knowledge and belief.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: Honolulu, Hawaii, August 9, 2005.

  
WILLIAM M. DOMINGO  
Attorney for Defendant  
SAMUEL M. KAAUWAI, III


**CERTIFICATE OF SERVICE**

I, WILLIAM M. DOMINGO, hereby certify that a true and exact copy of the foregoing document was duly mailed and/or hand-delivered to the following on August 9, 2005:

MARSHALL SILVERBERG  
Assistant United States Attorney  
PJKK Federal Building  
300 Ala Moana Boulevard, Room 6100  
Honolulu, Hawaii 96813

Attorney for Plaintiff  
UNITED STATES OF AMERICA

DATED: Honolulu, Hawaii, August 9, 2005.

  
WILLIAM M. DOMINGO  
Attorney for Defendant  
SAMUEL M. KAAUWAI, III